

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9

10 ROOTS READY MADE
11 GARMENTS CO. W.L.L.,

12 Plaintiff,

13 v.

14 THE GAP, INC., et al.

15 Defendants.
16 _____/

No. C 07-3363 CRB (WDB)

**ORDER GRANTING
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER**

17 On August 6, 2008, the Court heard oral argument in connection with
18 Defendant Gap, Inc.'s Motion for Protective Order to bar Plaintiff from taking the
19 deposition of Donald Fisher, Gap's founder and former CEO and Chairmen. Having
20 considered the briefs and arguments of the parties, the Court ruled from the bench and
21 Ordered as follows:

22 Plaintiff Roots seeks to take the deposition of Mr. Fisher to gather evidence
23 about an alleged course of performance between the parties, following what Roots
24 describes as an oral agreement between Roots and Gap "to purchase the OP inventory
25 in exchange for the right to sell ISP merchandise." See Plaintiff's Opposition to
26 Defendants' Motion for Protective Order at 1. Given that Mr. Fisher does not recall
27 having any conversations of substance about Roots, and that Gap has agreed not to
28 contest Roots' version of a conversation between Mr. Fisher and Roots' former CEO,

1 Ashraf Abu Issa, there is presumptively more relevant and reliable evidence available
2 from other sources to help Roots prove an alleged course of performance between the
3 parties.

4 Accordingly, the Court GRANTS Defendants' Motion for Protective Order and
5 will not permit Plaintiff to depose Mr. Fisher on the condition that Gap does not
6 contest at any time the version of the conversations between Mr. Fisher and
7 Roots' former CEO, Ashraf Abu Issa, that is set forth in Ashraf Abu Issa's Declaration
8 filed on July 16, 2008, in support of Plaintiff's Opposition to Defendants' Motion for
9 Protective Order. This Declaration by Ashraf Abu Issa is attached as Exhibit A to this
10 Order.

11 IT IS SO ORDERED.

12 Dated: August 6, 2008


WAYNE D. BRAZIL
United States Magistrate Judge

RICHARD A. JONES (Bar No. 135248)
(rjones@cov.com)
COVINGTON & BURLING LLP
One Front Street
San Francisco, CA 94111
Telephone: (415) 591-6000
Facsimile: (415) 591-6091

Attorneys for Plaintiff
Roots Ready Made Garments Co. W.L.L.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ROOTS READY MADE GARMENTS CO.
W.L.L.,

Plaintiff,

v.

THE GAP, INC., a/k/a, GAP, INC., GAP
INTERNATIONAL SALES, INC., BANANA
REPUBLIC, LLC, AND OLD NAVY, LLC,

Defendants.

Case No: C 07 3363 (CRB) (WDB)

**DECLARATION OF ASHRAF ABU ISSA
IN OPPOSITION TO DEFENDANTS'
MOTION FOR PROTECTIVE ORDER**

Date: August 6, 2008

Time: 1:30 p.m.

Place: Courtroom 4, 3rd Floor

Judge: Wayne D. Brazil

Ashraf Abu Issa declares the following under penalty of perjury:

1. From the company's founding until in or around December 2004, I served as the Chief Executive Officer of Roots Ready Made Garments Co. W.L.L. ("Roots"). I make this declaration in support of Roots' opposition to the motion for a protective order filed by Gap, Inc., Gap International Sales, Inc., Banana Republic, LLC, and Old Navy, LLC (collectively, "Gap") to prevent Roots from taking the deposition of Don Fisher.

2. In late 2004, I met with Mr. Fisher, Gap's founder and former Chief Executive Officer and Chairman of the Board, in San Francisco, California. The meeting was arranged by Alain Moreaux, a former Gap employee whom Roots hired to serve as its Vice President, Retail.

1 3. In the motion for a protective order, Gap incorrectly describes my meeting with
2 Mr. Fisher as an “inconsequential” “exchange of pleasantries.” In fact, during the meeting,
3 which lasted approximately forty-five minutes, Mr. Fisher and I engaged in a substantive
4 discussion concerning the business relationship between Gap and Roots – an issue that is
5 sharply contested in this litigation.

6 4. Mr. Fisher appeared to be well aware of Roots’ activities in the Middle East
7 market in connection with Gap’s International Sales Program (“ISP”). Mr. Fisher and I
8 discussed the results of Roots’ ISP operations in its own retail stores in Qatar and through its
9 retail partners in the United Arab Emirates; Roots’ strategy for opening other markets in the
10 Middle East and North Africa; and Roots’ projected store openings and sales volumes in the
11 Arabic-speaking countries of the Middle East and North Africa.

12 5. Mr. Fisher stated that he was very impressed with Roots’ success in Qatar and
13 the UAE, and he sought my advice about the best method for handling the distribution of Gap
14 merchandise in the region. He also inquired about the fashion industry in the Middle East, and
15 how other brands are distributed in the region.

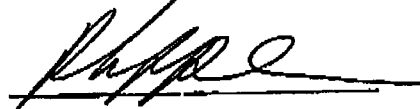
16 6. Toward the end of the meeting, Mr. Fisher insisted that I meet as soon as possible
17 with Andrew Rolfe, who was then in charge of Gap’s international division to discuss future
18 business opportunities between Gap and Roots. Mr. Fisher contacted Mr. Rolfe to arrange the
19 meeting.

20 7. Mr. Fisher assured me that Gap and Roots had and would continue to enjoy a
21 long-term business relationship. This encouraged Roots to continue to expend time and money
22 to expand Roots’ operations in the Middle East and North Africa.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 16th day of July 2008 in Doha, Qatar.



Ashraf Abu Issa

DECL. OF ASHRAF ABU ISSA
Case No.: C 07 3363 CRB.